

405 KAR 18:070. Water quality standards and effluent limitations.

RELATES TO: KRS 350.020, 350.090, 350.100, 350.151, 350.405, 350.420, 350.465

STATUTORY AUTHORITY: KRS Chapter 13A, 350.028, 350.100, 350.151, 350.420, 350.465

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 350 in pertinent part requires the cabinet to promulgate rules and administrative regulations establishing performance standards for protection of people and property, land, water and other natural resources, and aesthetic values, during underground mining activities and for restoration and reclamation of surface areas affected by underground mining activities. This administrative regulation identifies water quality standards and effluent limitations which must be met, identifies the waters to which they apply and the periods of time in which they apply, requires water treatment for sediment control, and provides certain exemptions.

Section 1. Water Quality Standards and Effluent Limitations. (1)(a) Any discharges to surface waters of water from disturbed areas, underground workings, coal processing plants, and other surface facilities, shall be treated by passing through sedimentation ponds or other approved treatment facilities before leaving the permit area. The cabinet may grant exemptions from the requirement for sedimentation ponds or treatment facilities where the drainage is demonstrated by the permittee to meet the requirements of paragraph (g) of this subsection, and:

1. The drainage is from underground workings; or
2. The drainage is from surface areas which are adequately stabilized by vegetation or other protection against erosion so as to prevent the formation of rills and gullies; or
3. The disturbed surface drainage area is small; or
4. The drainage is a mixture of surface drainage meeting subparagraphs 2 or 3 of this paragraph and drainage from underground workings, and each type of drainage is demonstrated by the applicant to meet the requirements of paragraph (g) of this subsection prior to being mixed.

(b) Sedimentation ponds and other treatment facilities for surface drainage from disturbed areas shall be properly maintained and shall not be removed until all disturbed areas in the drainage area above the facility have been backfilled, graded and revegetated in accordance with this chapter and:

1. The vegetation has successfully survived two (2) years after the last augmented seeding;
2. The vegetation meets the ground cover standards of 405 KAR 16:200; and
3. The permittee has demonstrated to the satisfaction of the cabinet that retention of the pond or other treatment facility is not necessary in order to meet the requirements of paragraph (g) of this subsection.

(c) Sedimentation ponds and treatment facilities for discharges from underground workings shall be maintained until either the discharge continuously meets the requirements of paragraph (g) of this subsection without treatment or until the discharge has permanently ceased.

(d) For the purposes of this administrative regulation only, disturbed area shall not include those areas affected by surface operations in which only diversion ditches, sedimentation ponds, or roads are installed in accordance with this chapter and the upstream area is not otherwise disturbed by the permittee.

(e) Sedimentation ponds required by this administrative regulation shall be constructed in accordance with 405 KAR 18:090 and 401 KAR 18:100, in appropriate locations before beginning any underground mining activities in the affected drainage area.

(f) Where sedimentation ponds are located so as to receive drainage both from disturbed areas and from other areas not disturbed by current surface coal mining and reclamation operations, the mixed drainage shall meet the requirements of paragraph (g) of this subsection when the mixed drainage leaves the permit area.

(g) Discharges of water from areas disturbed by underground mining activities shall at all times be

in compliance with all applicable federal and state water quality standards and either:

1. If the operation does not have a KPDES permit, the effluent limitations guidelines of coal mining promulgated by the U.S. EPA in 40 CFR 434; or

2. The effluent limitations established by the KPDES permit for the operation.

(2) Adequate facilities shall be installed, operated, and maintained to treat any water discharged from disturbed areas or discharged from underground mine workings, when necessary to ensure that the discharge complies with all federal and state laws and regulations and the requirements of this administrative regulation. Except where a lower pH is authorized by the KPDES permit for the operation, if the pH of water to be discharged from the disturbed area or mine is less than six (6.0), a neutralization process approved by the cabinet shall be installed, operated, and maintained. (8 Ky.R. 1563; eff. 1-6-1983; 15 Ky.R. 480; eff. 12-13-1988; Crt eff. 7-3-2018.)